

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOHN GARLAND, *et al.*, on behalf of themselves
and all other similarly situated employees of the New
York City Fire Department,

Plaintiffs,

-against-

NEW YORK CITY FIRE DEPARTMENT,
DANIEL A. NIGRO, in his official and individual
capacities, JOHN DOE #1-10, in their official and
individual capacities; and JANE DOE #1-10 in their
official and individual capacities,

Defendants.
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**EMERGENCY
AFFIRMATION OF AUSTIN
GRAFF IN SUPPORT OF
THE PLAINTIFFS' MOTION
FOR A TEMPORARY
RESTRAINING ORDER AND
A PRELIMINARY
INJUNCTION**

AUSTIN GRAFF, an attorney admitted to practice law before this Court, who is not a party to this Actin, affirmed to be true under penalties of perjury says:

1. I am associated with The Scher Law Firm, LLP, the attorneys for the Plaintiffs, in the above-entitled Action, and am familiar with the relevant facts and circumstances surrounding the allegations that comprise this litigation based upon the records maintained by my office regarding this matter. I submit this Affirmation in support of the Defendants' Motion for a Preliminary Injunction pursuant to FRCP Rule 65.

2. On or about November 1, 2021, the Defendant NEW YORK CITY FIRE DEPARTMENT ("FDNY") suspended without pay all FDNY employees who did not receive a COVID-19 vaccination. The FDNY employees, have statutory and constitutional rights to charges and a hearing pursuant to N.Y.C. Administrative Code. Yet, in violation of their statutory and constitutional rights to due process, the NYCDOE has suspended these NYCDOE employees from their jobs and suspended them without pay without any due process.

3. In addition, the FDNY has set an arbitrary date of December 1, 2021 for the Plaintiffs, those FDNY employees who have not been vaccinated and who have either a statutory right to a hearing to get the vaccine or lose their job. We are asking for emergency relief.

4. The Plaintiffs come to this Court seeking a Temporary Restraining Order and a Preliminary Injunction reinstating them to pay status since, as discussed in the accompanying Memorandum of Law, the Plaintiffs have a constitutional property interest in their pay.

5. The Plaintiffs come to this Court seeking a Temporary Restraining Order and a Preliminary Injunction restraining and enjoining the FDNY from terminating the Plaintiffs from their jobs. The Plaintiffs are asking for a Temporary Restraining Order and a Preliminary Injunction enjoining the FDNY from requiring the Plaintiffs and all others similarly situated from being terminating them on December 1.

6. The Plaintiffs are asking for immediate relief because the Plaintiffs have been unconstitutionally placed on suspension without pay since November 1, 2021 and are faced with an arbitrary deadline of December 1, 2021 that if permitted to remain in place will violate their constitutional rights to due process.

7. On November 24, 2021 by email, I provided notice to the FDNY, that the Plaintiffs will be filing the within Motion. See, **Exhibit B**.

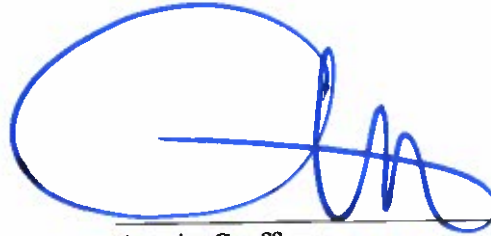
8. For the reasons argued in this Motion, the accompanying Affidavits, and in the accompanying Memorandum of Law, the Plaintiffs request a preliminary injunction be granted.

9. The Plaintiffs rely upon the following exhibits in support of their Motion: **Exhibit A**, is a copy of the Complaint

10. For the reasons argued in the accompanying Memorandum of Law, and the accompanying Affidavits, the Plaintiffs' Motion for an Injunction should be granted.

WHEREFORE, the Plaintiffs respectfully request that the Court grant this Motion, as well as such other and further relief as may be just and proper.

Dated: Carle Place, New York
November 24, 2021

A handwritten signature in blue ink, consisting of a large, stylized 'G' followed by several loops and a horizontal line extending to the right.

Austin Graff